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10/055,043	01/23/2002	Thomas C. Hunt		5788

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09/23/2004

Ted Masters
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EXAMINER

RADA, ALEX P

ART UNIT

PAPER NUMBER

3714

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/055,043

Applicant(s)

HUNT ET AL

Examiner

Alex P. Rada

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-12, 18-32 and 35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-12, 18-22 and 35 is/are allowed.
- 6) ☒ Claim(s) 23-25, 27, 28 and 31 is/are rejected.
- 7) ☒ Claim(s) 26, 29-30 and 32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

A notice of withdrawal from issues was mailed June 30, 2004 due to unpatentability of one or more claims, see 37 CFR 1.313(b)(3). In response to the amendment filed November 17, 2003 in which the applicant cancels claims 1-5, 13-17, and 33-34, amends claims 6-7, 18-19, 23, 27, and 35, and claims 6-12, 18-32, and 35 are pending in this office action.

Claim Objections

1. Claims 6-7, 18-19, and 35 are objected to because of the following informalities:

Please change in claim 6, line 9 the word "piece" to --pieces-- between the words chess and in.

Please change in claim 7, line 10 the word "piece" to --pieces-- between the words chess and in.

Please change in claim 18, line 10 the word "piece" to --pieces-- between the words chess and in.

Please change in claim 19, line 10 the word "piece" to --pieces-- between the words chess and in.

Please change in claim 35, line 12 the word "piece" to --pieces-- between the words chess and in.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vogel

(Chess variants website) in view of Vilches Guerra (US 5,954,33).

4. Vogel discloses the following:

A playing area having 144 playing stations arranged in a 12 by 12 matrix, the playing station being of two alternating types, the playing area having four sides, each side having 12 playing stations, one player disposed adjacent to one side of the playing area, and another player disposed to another side of the playing area, one set of chess pieces belonging to one player and the another set of the chess pieces belonging to the other player, the two players placing their chess pieces upon the playing area, providing rules of play, the rules of play including conventional rules of chess play as recited in claim 23.

The placing of the chess pieces limited to designated portions of the playing area, in which the examiner interprets the borders of the chessboard to be equivalent to the limited to the designated portions of the playing area as recited in claim 24.

Vogel does not expressly disclose the following:

Providing two, and only two sets of chess pieces, each set of chess pieces including: sixteen pawns, four rooks, four knights, four bishops, one king and one queen and two players playing a modified game of chess in accordance with the rules of play as recited in claim 1.

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Vilches Guerra teaches the following:

Providing two, and only two sets of chess pieces, each set of chess pieces including: sixteen pawns, four rooks, four knights, four bishops, one king and one queen and two players playing a modified game of chess in accordance with the rules of play (figures 2 and 3) as recited in claim 1. By having two sets of chess pieces on a modified chessboard, one of ordinary skill in the art would provide avid chess players with an exciting game that considerably extends the possibilities and alternatives with every move made.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Vogel to include two, and only two sets of chess pieces, each set of chess pieces including: 16 pawns, four rooks, four knights, four bishops, one king and one queen and two players playing a modified game of chess in accordance with the rules of play as taught by Vilches Guerra to provide avid chess players with an exciting game that considerably extends the possibilities and alternatives with every move made.

5. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vogel (Chess variants website) in view of Vilches Guerra (US 5,954,33) as applied to claim 23 above, and further in view of Nebermann (Chess variants website).

6. Vogel in view of Vilches Guerra disclose the claimed invention as discussed above except for the following:

Each set of chess pieces includes at least one master pawn and the master pawn moves diagonally and capturing straight ahead as recited in claim 25.

Nebermann teaches the following:

A pawn moving diagonally forward and capturing vertically forward (movement rules). By having a pawn that can move diagonally forward and capture vertically forward, one of ordinary skill in the art would provide new and exciting game.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention was made to modify Vogel to further include a pawn that can move diagonally forward and capture vertically forward as taught by Nebermann to provide game players with a challenging twist to a traditional game of chess.

7. Claims 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vogel (Chess variants website) in view of Sirk (US 5,280,913).

8. Vogel discloses the following:

A playing area having 144 playing stations arranged in a 12 by 12 matrix, the playing stations being of two alternating types, the playing area having four sides, each side having 12 playing stations and the rules of play including conventional rules of chess play as recited in claim 27.

The placing of the chess pieces limited to designated portions of the playing area, in which the examiner interprets the borders of the chessboard to be equivalent to the limited to the designated portions of the playing area as recited in claim 28.

Vogel does not expressly disclose the following:

Providing four sets of chess pieces each set of chess pieces being distinguishable from each other and the two players playing a modified game of

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chess in accordance with the rules of play, one player disposed adjacent to one side of the playing area, and another player disposed to another side of the playing area, two sets of chess pieces belonging to one player and the another two sets of the chess pieces belonging to the other player, the two players placing their chess pieces upon the playing area, providing rules of play as recited in claim 27.

Sirk teaches the following:

Providing four sets of chess pieces each set of chess pieces being distinguishable from each other and the two players playing a modified game of chess in accordance with the rules of play, one player disposed adjacent to one side of the playing area, and another player disposed to another side of the playing area, two sets of chess pieces belonging to one player and the another two sets of the chess pieces belonging to the other player, the two players placing their chess pieces upon the playing area, providing rules of play as recited in claim 27. By having four sets of chess pieces and the game ends when both Kings have been put into checkmate, one of ordinary skill in the art would provide new challenges to the traditional game of chess and increasing the interest in the game of chess.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Vogel to include four sets of chess pieces each se of chess pieces being distinguishable from each other, the two player playing a modified game of chess in accordance with the rules of play, and an additional rule of play, which modifies the conventional rules of chess

including the game, ends when both of the player's kings have been put into checkmate as taught by Sirk to provide new challenges to the traditional game of chess and increasing the interest in the game of chess.

9. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vogel (Chess variants website) in view of Sirk (US 5,280,913) as applied to claim 27 above, and further in view of Nebermann (Chess variants website).

10. Vogel in view of Sirk disclose the claimed invention as discussed above except for the following:

Each set of chess pieces includes at least one master pawn and the master pawn moves diagonally and capturing straight ahead as recited in claim 31.

Nebermann teaches the following:

A pawn moving diagonally forward and capturing vertically forward (movement rules). By having a pawn that can move diagonally forward and capture vertically forward, one of ordinary skill in the art would provide new and exciting game.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention was made to modify Vogel to further include a pawn that can move diagonally forward and capture vertically forward as taught by Nebermann to provide game players with a challenging twist to a traditional game of chess.

Allowable Subject Matter

11. Claims 6-12, 18-22, and 35 are allowed.

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12. Claims 26 and 29-30 and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

13. Applicant's arguments with respect to claims 6-12, 18-32, and 35 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Garen GB '351 discloses a modified game of chess.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 703-308-7135. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's primary, Jessica Harrison can be reached on 703-308-2217. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

APR

JESSICA HARRISON
PRIMARY EXAMINER